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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/759,891

01/16/2004

J. David Prest

1756-A-22

8475

26740

7590

12/18/2006

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EXAMINER

WILLIAMS, MARK A

ART UNIT

PAPER NUMBER

3676

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

12/18/2006

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/759,891

Applicant(s)

PREST

Examiner

Mark A. Williams

Art Unit

3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-13,15,17-20 and 24-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4-13, 15, 17-20, and 24-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 4-13, 15, 17-20, and 24-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent JP 07250754 ('754) in view of Elliott, US Patent 1,782,293.

Regarding claims 1 and 4, JP '754 provides a rug having an underside detachably attachable to a step and a riser and including at least a pair of hook and loop fasteners for securing said rug in contact with and directly to the step and riser, said rug comprising in combination (a) a bendable layer of material 1, said layer including first and second edges; (b) one of a first hook fastener and a first loop fastener 3 secured proximate one of said first and second edges; (c) one of a second hook fastener and a second loop fastener 3 secured proximate another of said first and second edges; (d) another of said first hook fastener and said first loop fastener adapted for attachment to the step; (e) another of said second hook

fastener and said second loop fastener adapted for attachment to the riser (see figures 1, 3, and 4).

Regarding claims 13, 15, and 17-20, with respect to the language of “extending directly from the surface of the step and without penetrating the surface of the step” (or “riser”), Elliott doesn’t directly show this claimed subject matter, but does show a penetrating fastener. However, Elliott is relied on for its general teaching of the concept of a snap-lock engagement of a mat. The scope of the design of Elliot is not solely limited to use of a penetrating fastener, but one of ordinary skill in the art would know that other non-penetrating fastening means could have obviously been used that would function equally as well, thereby being art recognized equivalent structure, such as adhesive.

JP ‘754 discloses the claimed invention except teaching female and male snap lock fasteners as claimed. It is known in the art to use such female/male snap lock means for fastening a member as desired. Elliott provides an example of such a female/male snap fitting engagement. It would have been obvious at the time the invention was made for one skilled in the art to have included in the design of JP ‘754 such a modification, for the purposes of providing additional fastening structure to create an even greater securing of the rug. The claimed method is obvious to the design.

Regarding claims 5-9, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have made such modifications to the device of the combination, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70. Such a modification is not critical to the design and would have produced no unexpected results. One may elect such positions to better secure the rug against forces resulting from a person or persons walking up or down the steps.

Regarding claims 10-12, the examiner serves Official Notice that it is old and well known in the art to use adhesive to secure fastener members. It would have been obvious to modify the combination to include such adhesive layers as a means of securing the fasteners as desired.

Regarding claims 24-33, see the above rejections of claims 1, 4-13, 15, 17-20.

Response to Arguments

3. Applicant's arguments with respect to the claims of record have been fully considered and are not persuasive.

Applicant argues that Elliott's snap fastener assembly is limited essentially

to use on wooden floors with a screw to threadedly engaging the floor, while the present invention requires no such penetration. However, Elliott is relied on for the general teaching of the concept of a snap-lock engagement of a mat. The scope of the design of Elliot is not solely limited to use of a penetrating fastener, but one of ordinary skill in the art would obviously know that the device could be modified so that other non-penetrating fastening means could be used that would function equally as well, thereby providing an art recognized equivalent modification, such as adhesive. Applicant has not overcome the applied combination.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however,

will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark A. Williams whose telephone number is (571) 272-7064. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on (571) 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mark Williams
12/7/06



BRIAN E. GLESSNER
SUPERVISORY PATENT EXAMINER